IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

THOMAS J. WYLIE, SR. **INDIVIDUALLY, AND AS** **EXECUTOR FOR THE ESTATE OF** **THOMAS J. WYLIE, JR.** **27170 Glenwood Road** **Perrysburg, Ohio 43551-4803**	)	**Case No. :** **HON. JUDGE**
PLAINTIFF, **v.**	)	**COMPLAINT** **WITH JURY DEMAND ENDORSED** **HEREUPON**
FED EX GROUND PACKAGE **SYSTEM, INC.** **1515 Gostlin Street** **Hammond, Indiana 46327**	)	
And	)	
JONATHAN P SHOEMAKER **9820 Winding Shores Drive** **New Haven, Indiana 46774**	)	**THE LAW OFFICE OF NORMAN A. ABOOD** Norman A. Abood, Esq. (0029004) 203 Fort Industry Square 152 N. Summit St. Toledo, Ohio 43604
And	)	Phone: 419.724-3700 Fax: 419.724-3701 E-mail: norman@nabood.com
VAN C. ADAMS **915 Winchester Lane** **Fort Wayne, Indiana 46816**	)	*Attorney for Thomas J. Wylie, Sr., Executor of the Estate of Thomas J. Wylie, Jr.*
DEFENDANTS.	/	

NOW COMES the plaintiff, Thomas J. Wylie, Sr., individually, and in his capacity as Executor of the Estate of Thomas J. Wylie, Jr. ("plaintiff"), by and through his undersigned counsel, Norman A. Abood, who for his Complaint against the defendants, FedEx Ground Package Systems, Inc. ("FedEx"), Jonathan P. Shoemaker ("Shoemaker"), and Van C. Adams ("Adams"), (FedEx, Shoemaker, and Adams are collectively referred to hereinafter as the "defendants"), states as follows:

PARTIES

1. Plaintiff, Thomas J. Wylie, Sr., is the natural father of the decedent, Thomas J. Wylie, Jr.

2. On the date of his demise, June 23, 2012, decedent, Thomas J. Wylie, Jr., was a resident of the State of Ohio, having a residence address of 5111 CR 3, Swanton, Fulton County, Ohio 43558.

3. On August 20, 2012, plaintiff, Thomas J. Wylie, Sr., was duly appointed the Executor of the Estate of Thomas J. Wylie, Jr. by the Fulton County Probate Court in Estate Case No. 2012 – 1161.

4. Plaintiff, Thomas J. Wylie, Sr., is and, at all times material hereto has been, a resident of the State of Ohio, having a notice address of 27170 Glenwood Road, Perrysburg, Ohio.

5. Plaintiff, Thomas J. Wylie, Sr., brings the causes of action stated in this Complaint, individually and as the personal representative of the decedent, Thomas J. Wylie, Jr., and decedents' next of kin.

6. Defendant, FedEx, is and, at all times material hereto has been, a Corporation organized and existing under the laws of the State of Indiana, having its principal place of business at 1515 Gostlin Street Hammond, Indiana 46327.

7. Defendant, Shoemaker, is and, at all times material hereto has been, a resident of the State of Indiana, having a residence address of 9820 Winding Shores Drive, New Haven, Indiana 46774.

8. Defendant, Adams, is and, at all times material hereto has been, a resident of the state of Indiana, having a residence address of 915 Winchester Lane, Fort Wayne, Indiana 46816.

JURISDICTION AND VENUE

9. Personal jurisdiction is appropriate in this Court pursuant to 28 U.S.C. §1332 (a) (1) (diversity of citizenship).

10. Venue is appropriate in this Court pursuant to 28 U.S.C. §1391 (b) (2) (the judicial district in which a substantial part of the events giving rise to the claim occurred) as the causes of action addressed herein took place in Henry, County, Ohio.

11. The amount in controversy in this Complaint exceeds $75,000 (28 U.S.C. §1332 (a)).

GENERAL FACTUAL ALLEGATIONS

12. On June 23, 2012, defendant Shoemaker was driving a semi-tractor pulling double trailers eastbound on Ohio State Route 24 in Henry County, Ohio.

13. On June 23, 2012, defendant Adams was driving a semi-tractor pulling double trailers eastbound on Ohio State Route 24 when he collided with a 2009 Chevy Silverado being driven westbound on Ohio State Route 24 by Thomas J. Wylie, Jr. in Henry County, Ohio.

14. At the time of collision between defendant Adams and Thomas J. Wylie, Jr., defendant Shoemaker was immediately behind. Defendant Adams.

15. Immediately following and as a consequence of the collision between the vehicles being driven by defendants Adams and Thomas J. Wylie, Jr., the 2009 Chevy Silverado being driven by Thomas J. Wylie, Jr. spun in front of and was struck and crushed by the semi-tractor pulling double trailers being driven by defendant Shoemaker.

16. At the time of the collision, both defendant Shoemaker and defendant Adams were employed by and driving for defendant, FedEx.

17. At the time of the collision, defendant Schumacher was driving a vehicle that was owned by defendant, FedEx.

18. At the time of the collision, the double trailers being pulled by both defendants Shoemaker and Adams were owned and/or operated by defendant, FedEx.

19. As a direct and proximate result of the collisions between the vehicles driven by Thomas J. Wylie, Jr., defendant Shoemaker and defendant Adams as aforesaid, Thomas J. Wylie, Jr. suffered fatal injuries.

COUNT I - NEGLIGENCE: DEFENDANT ADAMS

20. Plaintiff repeats and realleges the assertions and allegations contained in paragraphs 1 – 19 above as if fully set forth herein.

21. Defendant Adams was negligent in the operation of the semi tractor-trailer which proximately caused the injuries and damages sustained by plaintiff and Thomas J. Wylie, Jr.

COUNT II - NEGLIGENCE: DEFENDANT SHOEMAKER

22. Plaintiff repeats and realleges the assertions and allegations contained in paragraphs 1 – 21 above as if fully set forth herein.

23. Defendant Adams was negligent in the operation of the semi tractor-trailer which proximately caused the injuries and damages sustained by plaintiff and Thomas J. Wylie, Jr.

COUNT III - NEGLIGENCE: DEFENDANT, FEDEX

24. Plaintiff repeats and realleges the assertions and allegations contained in paragraphs 1 – 23 above as if fully set forth herein.

25. At the time of collisions between the vehicles driven by Thomas J. Wylie, Jr., defendant Shoemaker and defendant Adams as aforesaid, defendant Shoemaker was acting within the scope of his duties as an employee of defendant, FedEx.

26. At the time of collisions between the vehicles driven by Thomas J. Wylie, Jr., defendant Shoemaker and defendant Adams as aforesaid, defendant Adams was acting within the scope of his duties as an employee of defendant, FedEx.

27. As the employer of defendants Adams, defendant, FedEx, is liable for the negligence of defendant Adams as aforesaid.

28. As the employer of defendant, Shoemaker, defendant, FedEx, is liable for the negligence of defendant Shoemaker as aforesaid.

COUNT IV - WRONGFUL DEATH: ALL DEFENDANTS

29. Plaintiff repeats and realleges the assertions and allegations contained in paragraphs 1 – 28 above as if fully set forth herein.

30. This wrongful death action is brought pursuant to Ohio Revised Code §2125.01, *et seq.*, for the exclusive benefit of the surviving father, Thomas J. Wylie, Sr. and other next of kin of plaintiff's decedent, Thomas J. Wylie, Jr., including decedents' natural mother, Lisa Wylie.

31. as a direct and proximate result of defendant's negligence described above, the statutory beneficiaries of Thomas J. Wylie, Jr. have been deprived of and have suffered the following losses and damages:

- Loss of the society of Thomas J. Wylie, Jr.; and
- Mental anguish.

32. Further, as a direct and proximate result of the defendants' actions as aforesaid, plaintiff has incurred funeral, burial and estate expenses as well as other pecuniary loss, in payment of decedent's debts owing at the time of his demise, by reason of the wrongful death of Thomas J. Wylie, Jr.

COUNT V - SURVIVAL ACTION: ALL DEFENDANTS

33. Plaintiff repeats and realleges the assertions and allegations contained in paragraphs 1 – 32 above as if fully set forth herein.

34. Plaintiff brings this survivorship claim pursuant to Ohio Revised Code §2305.21, for the benefit of the Estate of Thomas J. Wylie, Jr., to recover damages attributable to the conscious pain and suffering sustained by plaintiff's decedent prior to his death.

35. As a direct and proximate result of defendants' actions as described above, the plaintiff's decedent sustained severe personal injuries and suffered pain of mind and body of the time of the collision until his death.

WHEREFORE, plaintiff, individually and as the personal representative of the Estate and next of kin of Thomas J. Wylie, Jr., prays for judgment against defendants, jointly and/or severally, on all counts, in an amount to do to be determined at trial in excess of $75,000 as to each defendant, together with interest, the costs of this action, and such other and further relief which this Court may deem just or equitable.

Dated: December 19, 2013

Respectfully Submitted,

THE LAW OFFICE OF NORMAN A. ABOOD
/s/ *Norman A. Abood*
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JURY DEMAND

Plaintiff prays for trial by jury on all issues so triable herein.

Respectfully requested,
/s/ *Norman A. Abood*
Norman A. Abood
Attorney for Plaintiff